



JTPA

Number: D95-20

Serving the People of California

DIRECTIVE

Date: November 2, 1995

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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: JTPA PARTICIPANT ELIGIBILITY FOR UI TRAINING BENEFITS

EXECUTIVE SUMMARY:

Purpose:

This Directive 1) provides information on the potential eligibility of the Job Training Partnership Act (JTPA) participants for Unemployment Insurance (UI) benefits; 2) provides caution about issuance of needs based or needs related payments and grants to JTPA participants who receive UI; and 3) describes procedures for obtaining and completing forms relating to the California Training Benefits (CTB) program.

Scope:

This Directive applies to all Service Delivery Area (SDA) administrative entities in California, and to other entities contracting directly with the State of California, the Employment Development Department (EDD) to operate programs funded under JTPA. This Directive is applicable to all JTPA program titles.

Effective Date:

This Directive is effective on date of issuance.

REFERENCES:

- California Unemployment Insurance Code (CUIC) Sections 1266 - 1274.10
- California Training Benefits EDD Field Office Manual

STATE-IMPOSED REQUIREMENTS:

This Directive contains only State-imposed requirements.

FILING INSTRUCTIONS:

This Directive supersedes Directive 85-1 Rev. 3, dated January 6, 1993. Retain this Directive until further notice.

BACKGROUND:

While in approved training/retraining, a UI claimant is exempted from meeting availability and seek-work requirements of the CUIC. The claimant may also decline suitable work and can quit work if continuing work would preclude completion of CTB approved training. The intent of this program is to assist California UI claimants to avoid long-term unemployment by acquiring skills to make the individual job competitive. Potentially eligible claimants are those unemployed four or more continuous weeks; or lost their most recent employment due to a plant closure or substantial reduction in work force; or meets the layoff standard of the federal Trade Act; or has a mental or physical disability which prohibits the individual from utilizing existing skills.

The UI claimants who are accepted and participate in training funded under JTPA have the EDD Director's approval for CTB if the individual is eligible for UI. The individual must, however, meet the time frames in order to qualify for the additional Training Extension (TE) benefits.

Extension of UI Training Benefits

Most UI claims pay benefits up to 26 weeks; however, many training programs require longer periods of time. The TE claims are available to CTB participants, enabling them to continue receiving UI benefits through the last week of training, up to a maximum of 52 weeks. In order to be potentially TE eligible, claimants must apply for CTB before receiving a check for the sixteenth payable week of their claim.

Standards of Eligibility for CTB

Under CUIC provisions, local EDD UI Offices make UI eligibility determinations for all claimants. Claimants attending school or training may apply for CTB and receive written determinations of potential eligibility (potential because eligibility is always conditional and determined on a weekly basis). The UI Office will issue such a determination if the EDD Director finds that certain conditions exist and approves the training. Determinations include possible rights to benefit extensions.

A. The EDD Director's approval of training (limited to once in each three years for any individual) is contingent upon a number of factors, including:

- cause and duration of unemployment;
- local labor market needs and trends;
- type of training to be provided (training must be for an occupation for which there is reasonable local demand);
- total hours, duration, and purpose of training (training must be full-time, finished within one year and for obtaining immediate employment, not primarily for obtaining a college degree);
- assessment of claimant's ability to successfully complete training;
- verification that claimants are not direct recipients of State or federal discretionary use funds or cash awards; and
- verification of time since last CTB participation.

B. The EDD Director will give automatic approval to training (and participation is not restricted to once in three years) if training is authorized:

- by the JTPA, regardless of title; or
- under Employment Training Panel (ETP) programs; or
- by the Greater Avenues for Independence (GAIN) program under a contract with the county welfare department; or
- for individuals who have been certified as eligible for services under provisions of the federal Trade Act of 1974.

POLICY:

State policy assures that individuals who are eligible for UI and in need of training, or retraining, are provided UI and other possible benefits during training or retraining for new jobs in demand occupations, in order to avoid long-term unemployment. While participating in such training, individuals found eligible to receive UI benefits are exempt from the requirements to seek work, to be available for work, to accept an offer of a job, or to continue working, if doing so would cause them to quit training.

Needs Based Payments

Payment of UI benefits is prohibited during a period of training or retraining if the participant also receives any other training or retraining benefits, allowances or stipends. These are defined as discretionary use, cash-in-hand payments available to the individual to be used as they see fit. Payments or reimbursements for actual expenses, such as transportation, are allowable. They do not include direct and indirect compensation for training costs such as tuition, books, supplies unless the participant has discretion regarding the use of such designated, indirect compensation.

A participant who receives needs based or needs related payments which are discretionary use payments would be disqualified from receiving UI benefits during any week in which such payments are received. Performance incentives and participation allowances are examples of commonly used needs based payments. The SDAs should exercise caution in providing such payments to participants who are also UI claimants. The important thing to consider is the discretionary aspect of the needs based or needs related payments.

Payments made directly to a vendor on behalf of a participant would not jeopardize the participant's UI eligibility because the participant has no discretion over the use of the funds. The following examples show how needs based or needs related payments may affect UI benefits:

- Receipt of a weekly needs based or needs related payment, provided without a designated specific purpose, would be disqualifying for UI purposes.
- Reimbursement for specific costs of training incurred by the participant, such as transportation mileage, are not disqualifying.
- Receipt of funds to purchase designated items, the cost of which equaled or exceeded the funds, and for which the participant substantiates the expenditures with receipts, would not be disqualifying.

- Receipt of funds to purchase designated items, the cost of which was less than the amount received, would be disqualifying because the participant would have the discretionary use of the remaining funds, however small they may be.
- Pell grants, Montgomery GI Bill , and Veterans' Educational Assistance Program (VEAP) benefits received by the participant are not disqualifying as they are not funds received from the training facility or its funding source, and do not come under the provisions of Section 1273 of the CUIA.

These are not all inclusive. The discretionary use of needs based or needs related payments is often difficult to substantiate. If it cannot be determined whether the participant had discretionary use over the funds, the participant will be disqualified. All determinations of eligibility are made on a case-by-case basis. There is no way to determine in advance a participant's eligibility for UI benefits.

Because weekly UI benefit amounts, ranging from \$40 to \$230, will likely exceed most commonly used needs based payments, SDAs should inform participants of the effect of such payments on their receipt of UI. In addition, it may be appropriate to advise participants applying for grants or scholarships to consider designating vendors as payees.

PROCEDURES:

Eligibility Process

To begin the CTB process, JTPA participants should contact the UI Office holding their claim and request a CTB appointment. The SDAs should always advise participants that formal application for CTB is necessary; otherwise, benefits could be denied or delayed. Eligibility for UI and CTB are separate determinations.

- In order for local UI Offices to make CTB eligibility determinations, the following must be on file at a claimant's local UI Office:
 1. a valid UI claim;
 2. a completed Retraining Benefits Enrollment Report (DE 3422 D) which is included as Attachment 1; and
 3. a completed Training Funding Data Report (DE 3422 E) which is included as Attachment 2.
- For each participant claiming UI and seeking CTB approval, SDAs must:
 1. complete items 1 through 7 of the Retraining Benefits Enrollment Report (DE 3422 D);
 2. complete the Training Funding Data Report (DE 3422 E); and
 3. send both forms to the appropriate training providers.
- Training Providers:
 1. complete the remainder of the Retraining Benefits Enrollment Report (DE 3422 D); and
 2. return forms DE 3422 D and DE 3422 E to participants for delivery to the appropriate CTB Specialist.

- Local UI Offices:
 1. Determine eligibility for CTB and training extensions and issue written eligibility determinations using EDD forms DE 3100, 3100A and 3100B, included as Attachments 3, 4, and 5.
 2. Issue weekly claim forms and explain training certification requirements to eligible claimants using EDD forms DE 4581CTO and DE 3100D, included as Attachments 6 and 7.

Ordering Forms

The SDAs may obtain Training Funding Data Report (DE 3422 E) and Retraining Benefits Enrollment Report (DE 3422 D) forms by contacting CTB Specialists at local UI Offices. Requests should include name and quantity of each form needed, and the name and mailing address of the SDA, Private Industry Council, or JTPA Program Operator. The SDAs may use reproductions if necessary.

ACTION:

Bring this Directive to the attention of appropriate staff.

INQUIRIES:

Please direct inquiries about this Directive to Georganne Pintar, Manager, Policy Unit, at (916) 654-8498, or your Program Manager.

/S/ VICKI J. JOHNSRUD
Acting Chief

Attachments not available on line. To obtain a copy e-mail JTPD at JTPDLIB@EDD.CA.GOV (subject line should read: "Attachment") or contact Jim Scholl at (916) 657-4610.

1. EDD, Retraining Benefits Enrollment Report (D3422D Rev. 2 (6-88))
2. EDD, Training Funding Data Report (D3422E Rev. 2 (10-92))
3. EDD, Decision of Potential Training Benefits Entitlement (DE 3100 Rev. 6 (10-92))
4. EDD, Fact Finding Worksheet - Decision of Potential Entitlement for California Training Benefits (D3100A Rev 6 (10-92))
5. EDD, California Training Benefits Information for Trainee (DE 3100B Rev. 5 (10-92))
6. EDD, Continued Claim (DE 4581 CKOC Rev. 4 (11-94))
7. EDD, California Training Benefits (CTB) Program Information for Training Facility (DE 3100D Rev. 3 (10/92))